



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

APR 2 2013

REPLY TO THE ATTENTION OF:

WN-16J

Michael Lemcke, Chief
 Wastewater Permit Section
 Wisconsin Department of Natural Resources
 Post Office Box 7921
 Madison, Wisconsin 53707-7921

Re: Proposed General Pretreatment Program Administrative Rule Revisions

Dear Mr. Lemcke:

The U.S. Environmental Protection Agency has reviewed the proposed revisions to the General Pretreatment Requirements in the Wisconsin Administrative Code, chapter NR 211. The scope of this review was restricted to the revisions which were public noticed on January 24, 2013. EPA did not review the remaining portions of the General Pretreatment Requirements. In part, Wisconsin developed the proposed revisions in an effort to address one of the seventy-five issues EPA raised in a letter dated July 18, 2011. The proposed revisions more closely align Wisconsin's pretreatment requirements with revisions to the federal pretreatment regulations known as the Pretreatment Streamlining Rule. The Wisconsin revisions, if adopted, may constitute a revision to Wisconsin's approved National Pollutant Discharge Elimination System (NPDES) program and would need to be submitted to EPA for approval in accordance with 40 C.F.R. 123.62. As discussed further below, EPA believes that one of the proposed revisions may be cause for confusion and should be corrected. Additional comments and recommendations are provided in the enclosure to this letter.

NR 211.23(1)(j)(1) and NR 211.23(1)(j)(2) – Significant Non-Compliance

40 CFR 403.8(f)(2)(viii)(A) states in part that, "measurements taken for the same pollutant parameter during a 6-month period exceed a numeric Pretreatment Standard or Requirement..." NR 211.23(1)(j)(1) uses the phrase "any pollutant" instead of "same pollutant" and does not include the term "Pretreatment Standard or Requirement." Furthermore, 40 CFR 403.8(f)(2)(viii)(B) states in part, "measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement..." While NR 211.23(1)(j)(2) uses the word "any pollutant" instead of "same pollutant" and does not include the phrase "Pretreatment Standard or Requirement". The words "same" and "any" have different definitions and EPA believes this could cause confusion for publicly-owned treatment

works bound by this requirement to calculate significant non-compliance. EPA strongly suggests that the word "same" replace the word "any" in the proposed administrative code and to add the phrase "Pretreatment Standard or Requirement" to strictly conform to the federal regulation.

If you have any questions about these comments, please do not hesitate to contact me or your staff may contact Jodie Opie at (312) 353-1938 or at opie.jodie@epa.gov.

Sincerely,



Kevin M. Pierard, Chief
NPDES Programs Branch

Enclosure

cc: Robert Liska, WDNR

Enclosure

**Additional Comments from EPA Regarding the State of Wisconsin's Proposed
Revisions to Administrative Rules for General Pretreatment Requirements**

1. NR 211.25(2) – 40 CFR 403.12(m) requires in part that “This authorization must be made in writing by the principal executive officer or ranking elected official...”

NR 211.25(2) is missing the word “elected.”

2. NR 211.235(4)(a) – 40 CFR 403.8(f)(2)(vi) requires in part that “additional Significant industrial users must be evaluated within 1 year...”

NR 211.235(4)(a) – requires in part that “Newly identified significant industrial users must be evaluated” It is recommended that the word “Additional” be substituted for “Newly identified” since “Additional” might include more facilities than “newly identified.”

3. NR 211.15(7) – 40 CFR 403.12(l)(ii) requires in part that “...the manager is authorized to make decisions ...initiate and direct comprehensive measures.”

NR 211.15(7) is missing the word “initiate.”

4. NR 211.15(5) – 40 CFR 403.12(g)(6) says in part “If an Industrial User subject to the reporting requirement in paragraph (e) or (h) of this section monitors any regulated pollutant at the appropriate sampling location more frequently...”

NR 211.15(5) is missing the phrase “at the appropriate sampling location.”

5. NR 211.03(16) - accurately transcribes 40 C.F.R. § 403.3(l) but inaccurately references 283.21(2).

6. NR 211.03(19m)(a) and (c) also inaccurately reference NR 211.15(4)(d) which does not seem to exist.

7. NR 211.03(8m) – 40 CFR 403.18(b)(2) states in part, “total mass of a pollutant that all Industrial Users of a POTW...”

NR 211.03(8m) is missing the term, “of a POTW.”

8. NR 211.15(8)(b) – 40 CFR 403.12(o) requires in part, “Documentation of compliance with BMP requirements must be maintained as part of the SIU’s and POTW’s record-keeping requirements...”

NR 211.15(8)(b) is missing the requirement for the POTW or SIUs to maintain records of BMP compliance. This missing requirement should be incorporated into this section and any other relevant sections.

9. NR 211.15(5) – 40 CFR 403.12(g)(3), (4), and (6) requires periodic compliance reports to comply with sampling requirements, and requires the Control Authority to specify the number of grab samples necessary in periodic and non-categorical SIU reports, and requires non-categorical SIUs to report all monitoring results.

NR 211.15(5) does not require “appropriate sampling and analysis,” and does not give the control authority discretion to specify the number of grab samples necessary in non-categorical SIU reports and requires non-categorical SIUs to report all monitoring results, but does not condition that monitoring has to be at the “appropriate sampling location.”

10. NR 211.15(5) – 40 CFR 403.12(g)(3) states that non categorical SIUs are required to provide representative samples in their periodic monitoring reports.

NR 211.15(5) is missing the requirement of non-categorical SIUs to provide data which are representative of conditions during the reporting period.

11. NR 211.15(4)(a) – 40 CFR 403.12(e) requires that SIU reports must include BMP compliance information.

NR 211.15(4)(a) cites the need to document BMP compliance, but is missing compliance with pollution prevention alternatives.

12. NR 211.10(3)(e) – 40 CFR 403.5(d) states in part, “Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW...”

NR 211.10(3)(e) is missing the phrase “limits on pollutants or pollutant parameters.”

13. NR 211.11(3)(e) - 40 CFR 403.6(c)(8) states in part, “specify one limit for calculating maximum daily discharge and a second limit for calculating maximum monthly average...”

NR 211.11(3)(e) does not use the full terms “maximum daily” and “maximum monthly average.”

14. NR 211.15(4)(b)(5) - 40 CFR 403.12(e)(2)(v) requires the specification of the applicable National Pretreatment Standard part(s).

NR 211.15(4)(b)(5) does not specify that the applicable National Pretreatment Standard part(s) shall be cited.

15. NR 211.235(3)(a) - 403.8(f)(2)(v)(A) states in part, “...the POTW must immediately begin at least annual effluent monitoring of the User’s Discharge and inspection.”

NR 211.235(3)(a) is missing the term “and inspection.”